

MPTS Committee

Agenda and papers

Meeting:

11 September 2024



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MPTS Committee meeting

Wednesday 11 September 2024

10:00-13:00, Room 7.4

St James's Buildings, Oxford Road

M1 6FQ

Agenda

- 1** Welcome and apologies for absence.
- 2** Declaration of interests.
- 3** Minutes of the previous meeting held on Wednesday 14 February 2024.
- 4** Chair's report (oral).
- 5** Executive Manager's report including performance data and risk register.

Break for tea / coffee.

- 6** Annual review of the MPTS vision.
- 7** Tribunal members resourcing update.
- 8** Accommodation update.
- 9** Adjournments quarterly update.
- 10** Any other business.

Date and time of next meeting: Wednesday 13 November 2024, 10:00 – 13:00.



Agenda item:	03
Report title:	Minutes of the meeting on 8 May 2024
Considered by:	MPTS Committee
Action:	To approve

Members present

Deborah Taylor, Chair
Gill Edelman
Jacky Hayden
Barbara Larkin
Simon Mackenzie

Others present

Gavin Brown, Executive Manager
Niall Kelly, Corporate Governance Officer and Committee Secretary

Daniel Ford, MPTS Project Officer (Item 5)
Colin Barker, Head of MPTS Communications and Corporate Affairs (Item 6)
Samantha Bedford, Head of Case Management & Hearing Preparation (Item 8)

Welcome and apologies for absence (agenda item 1)

- 1** The Chair welcomed members of the Committee to the meeting.
- 2** There were no apologies for absence.

Declaration of interests (agenda item 2)

- 3** No interests were declared.

Minutes of the previous meeting held on 14 February 2024 (agenda item 3)

- 4** The Committee approved the minutes of the meeting held in February 2024 as a true record.

Matters arising

- 5** The Committee determined that the outstanding actions from the previous meeting have been completed.
- 6** The review of the feedback mechanism for tribunal members was discussed. It was agreed that an update would be provided at the next meeting.

Chair's report (agenda item 4)

In their report, the Chair noted:

- 7** That they were in the middle of the annual programme of meetings with the medical defence organisations. The organisations visited so far has been complimentary about the work of the MPTS and had been helpful in suggesting where further improvements could be made.
- 8** The meeting with the Professional Standards Authority went well, the PSA were positive about the work of the MPTS.
- 9** Future engagements include presenting to a British Medical Association Committee meeting, the annual meeting with the MPS, and attending the Armed Forces Medical Services conference.
- 10** The Chair highlighted the importance of gaining feedback from users and stakeholders.
- 11** A tribunal member appointment campaign will commence in June/July 2024.
- 12** There will be an upcoming event with Legal Bar Associations to encourage applications to become Legally Qualified Chairs.
- 13** Work continues in preparation for regulatory reform, and this is the subject of the afternoon seminar.

The Committee noted:

- 14** The MPTS User Group represents a good opportunity to receive feedback.
- 15** That there were several smaller medical defence organisations, and it was agreed that the MPTS would review how they engaged with them.

Executive Manager’s report (agenda item 5)

Gavin Brown presented this report.

The Committee noted:

- 16** The timescales for listing hearings remains under review and will continue to be topic of conversation with the GMC and medical defence organisations.
- 17** That the table of compliments and complaints would be extracted from the MPTS case management system and included in future reports.
- 18** The updated risk register which now included a rating of risk appetite.
- 19** Whilst it may be desirable to remove some of the low-risk items from the risk register, it was agreed that it was important that future members of the Committee remain sighted and aware of these issues.
- 20** The MPTS was considering the implications of AI. It was agreed that if any significant risks were identified that they would be shared with the Committee.
- 21** It would be useful to have an item in the Chair’s report to highlight any action taken in respect of tribunal members tenures.
- 22** There is currently the opportunity to refresh capacity and ensure that sufficiently experienced tribunal members can deal with longer and more complex cases going forward.
- 23** There are an increasing number of cases pertaining to freedom of speech reaching the MPTS.

Report of the MPTS Committee to GMC Council & Annual Report to Parliament (agenda item 6 & 7)

Colin Barker presented the reports.

The Committee:

- 24** Provided useful feedback on the two reports for the MPTS to consider.
- 25** Noted that the Annual Report to Parliament will also be available in Welsh.

Adjournments quarterly update (agenda item 8)

Samantha Bedford provided the update on quarterly adjournments.

The Committee noted:

- 26** The report and it was agreed that an analysis of IOT adjournments would be provided as part of the update on the IOT listings project at the next Committee meeting.

Review of the MPTS Committee’s Work Programme for 2024 (agenda item 9)

Niall Kelly presented this item.

The Committee noted:

- 27** As part of the discussions earlier in the Committee meeting it had been agreed that an update on the feedback mechanism for tribunal members and the IOT listings project would be provided at the next Committee meeting.
- 28** In line with previous reports to the Committee, the resourcing update agenda item scheduled for the meeting in September would include demographic data on tribunal members.

Any other business (agenda item 10)

- 29** The Committee expressed its gratitude to Jacky Hayden for her contribution to its work and the wider work of the MPTS.

Date and time of next meeting

- 30** Date and time of next meeting: 11 September 2024, 10:00 – 13:00. Meeting will be held in person at St James’s Building. There will be no afternoon seminar, instead Committee members are invited to observe a hearing.

Confirmed:

Date of meeting	Agenda item	Ref	Summary	Person responsible	Status
08-May-24	3		Provide an update on the review of the feedback mechanism for tribunal members	Tamarind Ashcroft	Ongoing
08-May-24	4		MPTS to review engagement with smaller Medical defence organisations	Colin Barker	Ongoing
08-May-24	5		Table of compliment and complaints should be extracted and included in future reports.	Niall Kelly	Ongoing
08-May-24	5		Item to be included in Chair's report which highlights any action taken in respect of tribunal member tenures.	Deborah Taylor	Ongoing
08-May-24	8		An analysis of IOT adjournments is to be provided as part of the updated on the IOT listings project	Sarah Amos	To be covered in section on adjournments at the 11 Sept 2024 meeting,



Agenda item:	05
Report title:	Executive Manager's report
Report by:	Gavin Brown, Executive Manager, gavin.brown@mpts-uk.org , 0161 240 8126
Considered by:	MPTS Committee
Action:	To consider

Executive summary

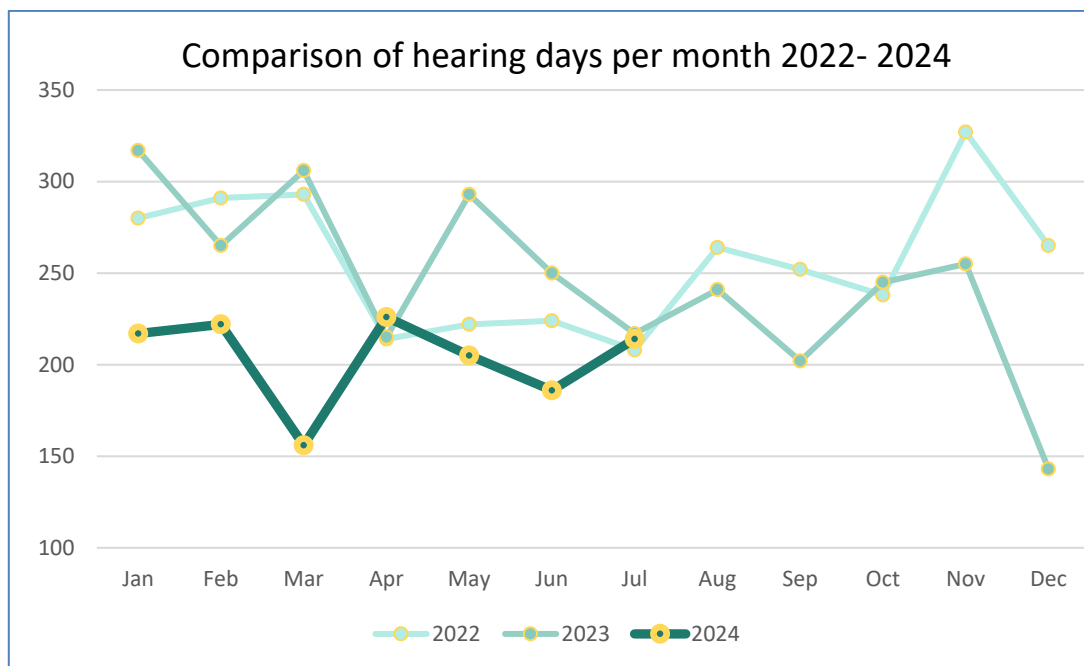
- ▶ This report provides the Committee with an update on the work of the MPTS.
- ▶ It includes an operational update, learning points from appeals, an update on projects, the findings of a recent internal audit, as well as the MPTS risk register.

Recommendation

- ▶ The Committee is asked to consider the report and its annex.

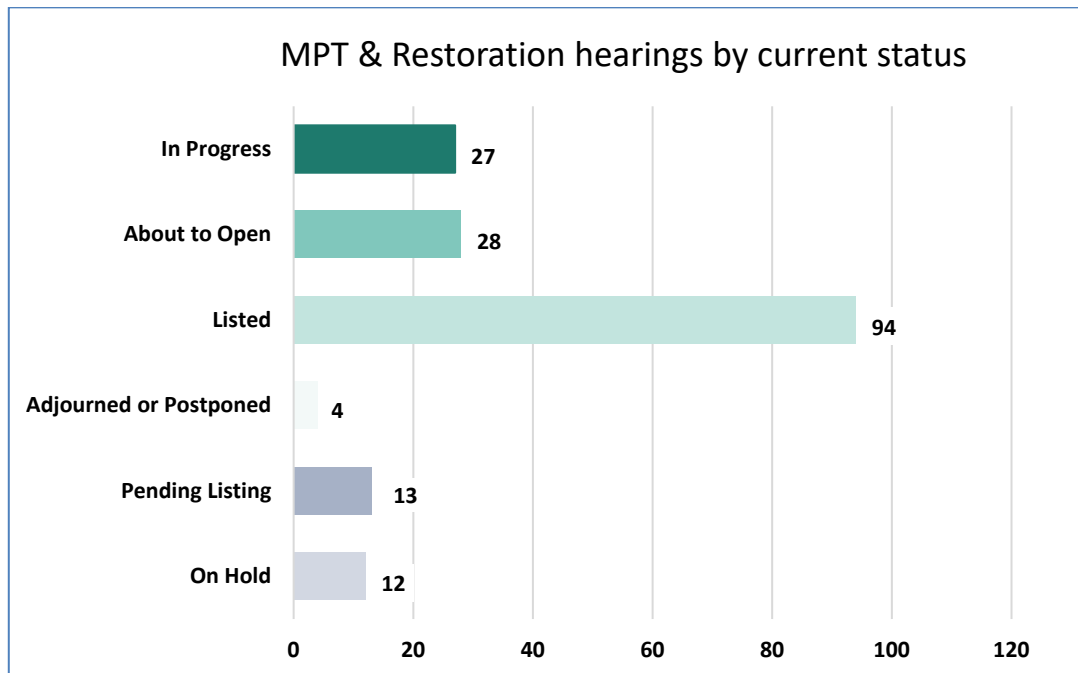
Operational update

- 1** Since the last Committee meeting on 8 May 2024, we have continued to run a mix of in person, hybrid (where parties attend in person or virtually), and virtual hearings.
- 2** The MPTS budget for 2024 represents around a £1.2m reduction against our spend in 2023.
- 3** One of the most important aspects of our budget calculations is how many hearing days we anticipate holding. In our planning, we considered 9 scenarios utilising two parameters - the number of referrals from the GMC we receive per month and the average length of our hearings.
- 4** For budget planning purposes we utilised the medium – medium scenario.
- 5** The chart below graphically illustrates the number of hearing days we have held so far in 2024 based on this approach to scheduling hearings.



- 6** Our approach to scheduling hearings includes an element of over-listing. The main reasons hearings do not take place as scheduled are that circumstances cause a Case Examiner to decide that the GMC can appropriately conclude its investigation by other means and the hearing is cancelled or an MPTS Case Manager grants a postponement or further adjournment (on application by the GMC, doctor, joint or MPTS).
- 7** There are also instances where a hearing takes place as scheduled but closes before the scheduled end date because the tribunal either grants an adjournment (on application by the GMC, doctor or joint) or can reach a decision earlier than planned (either on the initial or reconvened sitting).

- 8** The following chart shows that at the beginning of August 2024 the MPTS’s total hearing workload was 178. This represents a 25.5% decrease in our live hearing workload when compared to this point in 2023.



- 9** The ‘about to open’ category indicates where the doctor has been served with a notice of hearing and, bar any late postponement applications, the hearing is expected to open in less than 28 days.
- 10** ‘On hold’ refers to those hearings where no party would benefit from listing until there is a change in current circumstances. For example, in instances where one or more postponement applications have been granted on grounds of the doctor’s health, they are not working, and a recent expert report suggests they remain unable to take part in proceedings.
- 11** We are currently able to offer a listing date between 7 and 9 months of a GMC referral depending on the length of hearing required.

Appeals

- 12** Since the last update to the MPTS Committee on 8 May 2024, additional learning points published or arising from judgments given in appeals / challenges to tribunal decisions from 1 April to 30 June 2024, include the following:
- a** [Dutta v General Medical Council \[2024\] EWHC 1217 \(Admin\)](#) provided some general reminders in relation to evidence:

- ▶ Tribunals should be wary of reaching findings based only on selective parts of the evidence. A tribunal must explain why it reached its findings with reference to evidence which supports the allegation, but also deal with any evidence which suggested the contrary and explain why that was rejected in favour of the other evidence;
 - ▶ in cases where witnesses are not called because their evidence is agreed between the parties [because their evidence is about their state of belief, as opposed to facts], it is unfair for a tribunal to reject that evidence on the grounds that the witnesses were not cross examined. There is no basis for the wholesale rejection of such evidence, and this constitutes a material irregularity.
- b** Where there are disputed allegations of sexual misconduct and a practitioner (‘A’) and complainant (‘B’) give conflicting accounts of events the tribunal should not simply prefer one account to another. The tribunal first needs to assess whether the GMC have discharged the burden of proof that the events as described occurred by considering whether to accept that B’s evidence is sufficiently credible in itself and when compared with all the other evidence. If B’s evidence is insufficiently credible, there is no need to go further [Roach v General Medical Council \[2024\] EWHC 1114 \(Admin\)](#).
- c** Where a tribunal considers that a practitioner’s behaviour amounts to misconduct because Good Medical Practice (‘GMP’) has been breached:
- ▶ as to *“you must not pursue a sexual or improper emotional relationship with a patient”*: ‘pursue’ can include continuing. It does not matter whether the doctor uses their position to initiate a relationship with a patient that did not exist before; or whether the sexual relationship already existed before the patient became a patient of the doctor. Both are prohibited;
 - ▶ as to *“good medical professionals act with integrity”*: a reminder of the case of *Wingate v Solicitors Regulation Authority [2018] EWCA Civ 366* which stated that ‘integrity’ is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members ... The underlying rationale is that the professions have a privileged and trusted role in society. In return they are required to live up to their own professional standards;
 - ▶ lack of integrity does not need to be specifically pleaded within the GMC’s charges for a tribunal to make such a finding about the practitioner’s actions at impairment stage, where it was clearly founded on the facts. [Itrat Khan v GMC \[2024\] EWHC 1330 \(Admin\)](#).

Update on projects

Regulatory Reform

- 13** We are continuing to make good progress in achieving the 13 December deadline for having in place interim measure tribunal (IMT) processes and in completing the necessary updates to the MPTS website.
- 14** Terminology and content updates are being made across our website and documentation, as well as having new guidance for IMT new and review hearings and new processes created for IMT internal appeal hearings.
- 15** Our systems and the online register are being updated to ensure our role in running hearings for physician associates and anaesthesia associates is reflected externally.

IOT listings

- 16** In March 2024, the IOT listings project started looking at ways to further improve the listings process.
- 17** The team have reviewed the IOT session data identified that the majority of IOT sessions conclude well before 5pm. For instance, the average finishing time for IOT sessions between January and July 2024 was 15:34.
- 18** We have started to, where appropriate, schedule an additional hearing in IOT sessions.
- 19** When determining whether to add an additional hearing, previous sitting times and the specific circumstances of each individual hearing are considered. For some sessions we may still only have one or two cases listed if we consider that the likely length of the hearing(s) will require it.

Date	Time session concluded	Adjournment due to lack of time
11/04/2024	16:35	
17/06/2024	15:42	
23/07/2024	17:26	1
31/07/2024	17:00	
05/08/2024	16:41	
08/08/2024	15:02	
13/08/2024	14:18	

- 20** The aim remains to schedule the caseload appropriately so that all sessions conclude within the time allocated.
- 21** We have also reminded tribunal members of the drafting principles for IOT determinations, and this will be reinforced at annual training later in the year.

Technology in the hearing centre

- 22** In line with the MPTS Vision to provide a tribunal service that uses modern technology, we are working with GMC IS colleagues to implement upgrades of our equipment and systems.
- 23 Monitors:** As part of the office refurbishment, we are upgrading our monitors, which will greatly improve user experience for MPTS staff, the benefits being:
- high resolution capability to support multiple applications being open at once,
 - single cable connection to reduce wires and promote a clean a tidy desk environment,
 - built in webcams to support virtual working,
 - 'LowBlue' mode which reduces shortwave blue light.
- 24 Hearing loops:** We will be installing a replacement hearing loop system in all hearing rooms to ensure we're providing an accessible experience for all users. Appropriate systems are currently being researched.
- 25 Video-conferencing and paperless upgrade:** Funding has been obtained to upgrade our video-conferencing units. The aim is to provide an improved user experience when participating in a hybrid hearing or meeting. Alongside this, we are looking to upgrade our paperless system and the devices that tribunal members use to view hearing documentation. The two projects will run alongside each other to ensure opportunities and benefits from both systems are maximised. The procurement process is underway and we are likely to have/ completed this stage by the end of this year.

Internal audit

- 26** Please find at Annex A BDO's internal audit of MPTS's Legal processes.
- 27** The audit report found that through a well-managed set of processes the MPTS Legal Team can effectively discharge its responsibilities and deliver the core purpose of providing up to date and accurate legal advice and updates on case law, to support operational teams and tribunal members in making better informed decisions.

Opportunities and threats

- 28** An updated register can be found at Annex B.
- 29** The MPTS register has a regular review cycle that encompasses scrutiny from the MPTS's Corporate Services, Information and Insight Manager and Senior Management Team, along with the MPTS Committee, and GMC / MPTS Liaison Group. Risks are owned by the Executive Manager of the MPTS.

- 30** A risk register is set up for MPTS projects to keep track of all identified risks. These risks are also assessed against the matrix reproduced below.
- 31** The MPTS project team, which is part of our Operations & Development section, holds regular meetings to monitor these risks to ensure appropriate mitigating actions are implemented and updated where required.
- 32** The project lead will escalate risks, as necessary, to the senior responsible owner of the project. The senior responsible owner has overall responsibility for ensuring these risks are actively managed.
- 33** When necessary, the risks are escalated to MPTS Senior Management Team and included on the MPTS register.
- 34** In addition to learning from experience and sharing knowledge about similar risks occurring previously, the MPTS uses a matrix to assess the likelihood and impact of a risk.

		Impact		
		Minor	Moderate	Major
Likelihood	Unlikely Possible, but unlikely to occur. (<40% chance)	Low	Low	Significant
	Quite likely More than possible (40-60% chance)	Low	Significant	Critical
	Highly likely Much more likely than not to occur (>60% chance)	Significant	Critical	Critical

- 35** The MPTS classifies impact as follows:

	Operational functions	Achievement of Strategic Aims	Reputation	Timeframe of effect
Minor	Limited disruption to operational functions and/or intended outcomes e.g. a missed SLA which can be handled with short term temporary resource	Almost no adverse impact on the achievement of strategic aim(s), e.g. most partners are on board and willing to work with us but one or two	Little/limited adverse impact, e.g. critical hot spot media stories which quickly move on	Short term, expected to last only a few days or week

		specific challenges		
Moderate	Very concerning disruption to operational functions and/or intended outcomes	Achievement of strategic aim(s) disrupted or inhibited	Very concerning adverse impact	More enduring but still time-bound, could last for several weeks
Major	Operational functionality critically impaired e.g. issue is likely to impact on many people (externally or internally) or last for an extended period	Strategic aim(s) severely compromised or cannot be achieved, e.g. stakeholders actively campaigning against our policy position	Highly damaging adverse impact, e.g. we hold data which we have not acted on to prevent patient harm e.g.	Potentially long-lasting, impact may be felt for months or even longer

36 Colleagues across the GMC have been collaboratively working on updating the GMC’s Risk Management Framework. This includes reviewing the approach we take to risk appetite.

37 Currently, we describe our risk appetite, the amount of risk we are willing to bear to achieve an outcome, at one of three levels – high, medium, or low.

38 It is proposed that we move to five descriptors.

Appetite	Description
Averse	Avoidance of risk and uncertainty in achievement of deliverables or initiatives is the key objective. Activities undertaken will only be those considered to carry virtually no inherent risk.
Minimal	Preference for very safe business delivery options that have a low degree of inherent risk with the potential for benefit/return not a key driver. Activities will only be undertaken where they have a low degree of inherent risk.

Cautious	Preference for safe options that have low degree of inherent risk and only limited potential for benefit. Willing to tolerate a degree of risk in selecting which activities to undertake to achieve key deliverables or initiatives, where we have identified scope to achieve significant benefit and/or realise an opportunity. Activities undertaken might carry a high degree of inherent risk that is deemed controllable to a large extent.
Open	Willing to consider all options and choose one most likely to result in successful delivery while providing an acceptable level of benefit. Seek to achieve a balance between a high likelihood of successful delivery and a high degree of benefit and value for money. Activities themselves may potentially carry, or contribute to, a high degree of residual risk.
Eager	Eager to be innovative and to choose options based on maximising opportunities and potential higher benefit even if those activities carry a very high residual risk.

- 39** Our initial view is that some of the MPTS's existing risks could potentially be re-categorised into three of the new descriptors: averse, minimal, and cautious.
- 40** This would provide us with greater flexibility when having conversations about how much risk to take and associated mitigation activity.
- 41** The work on updating the Risk Management Framework is due to be completed by the end of the year.

Internal Audit Report

MPTS Legal processes

Level of Assurance		
Control Design	Green	Amber
Control Effectiveness	Green	Amber

Report Information

Distribution		Metrics	
Name	Title	Metric	Date
Gavin Brown	MPTS Executive Manager	Scope agreed	15 March 2024
Vaishali Fitton	MPTS Senior Legal Adviser	Fieldwork completed	2 July 2024
Neil Roberts	Director Resources	Draft report issued	12 July 2024
		Second draft report issued	18 July 2024
Internal Auditor		Management response	17 July 2024
Elliot Croucher	Assistant Manager	Final report	25 July 2024

Executive Summary

Purpose

- 1 The purpose of the review was to provide an independent assessment of whether the controls that have been established in relation to legal queries, providing case law updates and legal training are well designed and operating effectively. This included assessing the efficiency and effectiveness of processes to offer recommendations for process improvement. The review does not provide an opinion as to whether the legal advice or case law recommendations given are correct.

Background

- 2 Last year MPTS implemented a restructure, aligning teams to operations and development, communications and corporate affairs and case management and hearing preparation. Teams are supported by a Senior Legal Adviser with responsibility for providing legal advice, management of its Quality Assurance Group, and tribunal member training. The Senior Legal Adviser also oversees preparation of some aspects of operational guidance. Strategic policy work is supported by members of the GMC's Policy and Business Transformation Team.
- 3 The restructure has provided an opportunity to enhance the efficiency and effectiveness of MPTS operations and review processes with a view to optimising working arrangements.
- 4 The majority of MPTS Legal Teams' time is spent handling queries which are submitted on a form and responded to from a dedicated email inbox. However, in some cases (for example, when a hearing is in progress), legal advice may be sought quickly through direct contact from MPTS staff.
- 5 The MPTS Legal Team is also required to ensure that both of its members remain sighted on the advice given and retain documentation in a way which enables easy access and analysis to ensure consistency and to support the production of responses to frequently asked questions or guidance, where appropriate.

Key findings

- The Legal team has sufficient knowledge, experience, and expertise to provide appropriate legal advice to MPTS staff.
- Roles and responsibilities within the Team and the core processes are well understood.
- Testing of legal advice requests confirmed that all had been actioned by the Senior Legal Adviser or Legal Adviser with responses provided within the case management system, including an extract from the response email sent to the requester.
- To keep MPTS staff up to date, case law updates are sent to select MPTS staff through fortnightly emails. The system prompts which cases have not yet been reported and therefore should be included in the current reporting period. The updates also detail what 'actions' the MPTS will take in relation to tribunal member or staff learning.

- If identified as being required, the case law updates are also sent to tribunal members as quarterly circulars or full circulars on an 'as needed basis'. All case law updates are reviewed by the Senior Legal Adviser, Chair of the MPTS and Head of MPTS Operations and Development prior to issue.
- There has been positive engagement in all circulars (including quarterly and full case law circulars) issued to tribunal members ahead of the annual training session. This includes responding with questions or comments for discussion at these sessions.
- A number of opportunities for process enhancement to increase efficiency and resilience were noted. Primarily, these rely on the implementation of a new 'ticket-based' case management system.

Conclusion

- 6 Through a well-managed set of processes in place for their core activities the Legal Team can effectively discharge its responsibilities and deliver the core purpose of providing up to date and accurate legal advice and updates on case law, to support operational teams and tribunal members in making better informed decisions. Whilst there are opportunities to enhance these processes and increase resilience through improved technology, it is recognised that system enhancements and upgrades would need to be assessed against wider business priorities.

Audit findings summary and recommendations

Our opinion for the review of the MPTS Legal core activities is given below:



Control Design	Green	Amber	Generally, a sound system of internal control designed to achieve system objectives with some minor exceptions.
Control Effectiveness	Green	Amber	Evidence of minor non-compliance with some controls, of a housekeeping nature, which are unlikely to put system objectives at risk.



Summary of Recommendations (See Appendix 1 for Definitions)		
High		
Medium		1
Low		2

Recommendations	Rating	Agreed?
1. Review the propriety ratings and timelines for response. and work with those requesting advice to ensure that the timelines are appropriate generally, consider the priority of each request, when it is needed by, and a realistic appraisal of the time it will take to complete.	Medium	Yes
2. Discuss with the MPTS project team and IS the possibility of implementing a new ticketing-based system which would enforce the correct request process to be followed, provide the Legal Team with management information on the progress of requests and allow analysis of them to identify trends and recurring queries.	Low	Yes
3. Discuss with the MPTS Communications and Corporate Affairs Team and IS the possibility of tracking tribunal member engagement with circulars.	Low	Yes

Detailed Findings

1. Legal Advice Requests	Design	Green	Amber
	Effectiveness	Green	Amber
<p>Providing legal advice to MPTS operational teams is the primary function of the Legal Team. Requests for legal advice are raised to the Legal Team through the Legal Advice Request (LAR) form, accessed via the legal advice portal hosted on the MPTS intranet. The request forms ask requesters to include details of the query, category, and priority rating for a response. These are assigned to a member of the Legal Team once submitted. The priority ratings dictate the required timeline for response, as outlined below:</p> <ul style="list-style-type: none"> - High (2 days) - Medium (7 days) - Low (14 days) <p>The legal advice is sent to the requestor via email, and the response is copied and pasted into the LAR case within the system along with any supporting documentation.</p>			
Areas of good practice			
<ul style="list-style-type: none"> • The Legal team has sufficient knowledge, experience, and expertise to provide appropriate legal advice to MPTS staff. Additionally, interviews confirmed that roles and responsibilities within the Team and the core processes are well understood. • A sample of five Legal Advice Request cases confirmed that all had been completed, with responses recorded within the case management system, including an extract from the response email sent to the requester. These had been actioned by the Senior Legal Adviser or Legal Adviser in all cases. 			
Areas for improvement		Type	
<p>1. We reviewed the timeliness of completion of all legal advice request cases between June 2023 and June 2024 and noted that of the 48 total cases received in that period, 47 had been completed, with the remaining one in progress and overdue. This related to a low priority rated query asking for a Legal Team review of a document, raised on 22 April 2024, therefore eight weeks overdue at the time of the audit. The Senior Legal Adviser has since confirmed that this has been resolved. Of the 47 completed cases, 14 were not completed within the defined timelines based on the case category rating the requester had given (i.e., 30% not completed within required timelines). However, the Legal Team's prioritisation of requests does not necessarily concur with that of the requester.</p> <p>2. The process for actioning advice requests is very manual. All communications relating to the cases are done outside the system with the Team subsequently uploading relevant emails, notes of calls and pasting the legal advice response into the system. This creates inefficiency for the Legal Team and a risk that evidence trails may be lost, for example, if an email isn't uploaded. There are therefore opportunities to make improvements to the design of the Legal Advice Request process, including the Team ensuring requesters use the system to log their request and not engaging with email or phone call requests (unless very urgent). There may also be benefit in upgrading</p>		<p>Design</p>  <p>Effectiveness</p> 	

<p>to a system solution which enables all communications to be retained within the specific case ticket, similar to the way in which IT helpdesk queries are raised and managed. This would allow the MPTS to better understand the volume and nature of legal queries, allow more effective monitoring of workload and potentially make the data more easily mineable to help enable identification of trends and drive better insights. This could be a future area for AI application.</p> <p>Further to the above, the data captured within the legal advice request forms is not utilised to proactively develop additional communications to MPTS staff and tribunal members around reoccurring requests as the system doesn't enable cases to be 'tagged' with a theme. If the Legal Team could interrogate the data to identify frequently asked questions, this may help to reduce the volume of queries and therefore workload.</p>	
Management response and recommendation	Priority
<p>1.</p> <p>Action: Review the propriety ratings and timelines for responses and work with those requesting advice to ensure that the timelines are appropriate generally, consider the priority of each request, when it is needed by, and a realistic appraisal of the time it will take to complete.</p> <p>Responsible: Vaishali Fitton, Senior Legal Adviser</p> <p>Due by: 30 November 2024</p>	Medium
<p>2.</p> <p>Action: Discuss with the MPTS project team and IS the possibility of implementing a new ticketing-based system which would enforce the correct request process to be followed, provide the Legal Team with management information on the progress of requests and allow analysis of them to identify trends and recurring queries.</p> <p>Responsible: Vaishali Fitton, Senior Legal Adviser</p> <p>Due by: 30 November 2024</p>	Low

2. Case law updates and training	Design	Green	Amber
	Effectiveness	Green	Amber
<p>The Legal Adviser produces regular educational content and updates on recent case law for MPTS staff and tribunal members. The case law updates are identified through a daily review of the WestLaw database. If there are outcomes that can support MPTS staff or tribunal members, they are collated into a standard fortnightly case law update and issued to relevant MPTS staff via email. The email includes details of the case, the outcome, and possible MPTS action. Actions may include to issue tribunal members with learning points in a quarterly case law circular. Where high priority or important case outcomes are published, the Legal Team may issue a standalone circular. The Senior Legal Adviser, MPTS Chair and MPTS Head of Operations and Development review the content of all case law circulars prior to issue.</p> <p>These circulars form part of the basis of the content for the annual training delivered to tribunal members. This year, the Team has taken a more proactive approach to developing content, by sharing their thinking in advance and asking for input from tribunal members to maximise engagement.</p>			
Areas of good practice			
<ul style="list-style-type: none"> Regular case law updates are sent to MPTS staff and tribunal members through fortnightly or quarterly circulars. Full circulars are also published on an 'as needed basis'. If important case outcomes are identified in the interim, these are reviewed by the Senior Legal Adviser, MPTS Chair and MPTS Head of Operations and Development prior to issue. The system prompts the Legal Adviser periodically when the fortnightly updates are required including highlighting which cases have not yet been reported and therefore should be included in the current reporting period. Annual training is mandatory for tribunal members, including sessions on legal matters. For the 2024 training cycle MPTS has issued circulars and other case law updates to tribunal members to obtain feedback, which will be incorporated into the training. There has been positive engagement in the circulars issued to tribunal members ahead of the annual training session. This includes responses to questions and comments for discussion at the sessions rather than just a 'tick box' response, demonstrating engagement with the material. At the time of the audit (one week after issue) 68 out of 289 tribunal member responses had been received. Of these, 45 have asked questions on the topics chosen, 10 have chosen topics but not asked any questions, 13 did not choose a topic or ask any questions). 			
Areas for improvement		Type	
<p>3. The MPTS Legal Team is currently unable to confirm engagement with the material issued through circulars. In practice this is only obtained through responses from tribunal members, for instance if there is a specific question raised on the material. If the circulars were managed within a system, it would allow the Legal Team to gain greater insight into engagement rates including tracking the number of circulars opened, average read time and other engagement metrics.</p>		<p>Design</p> 	
<p>4. Outside the annual training, there are no further events or networking opportunities for tribunal members. Therefore, there is little opportunity for tribunal members to meet their wider network, discuss hearings and share knowledge. MPTS could consider if there are other opportunities for events on a more frequent basis to offer tribunal</p>		<p>Effectiveness</p> 	

members a chance to meet and discuss case decisions outside of the formal training cycle. We note that there may be an additional cost to MPTS of such events, and that a tribunal member's role within the MPTS may not be their primary employment, therefore making it difficult to prioritise regular or non-mandatory events. However, creating some form of community of practice could aid retention and engagement.	
Management response and recommendation	Priority
<p>3.</p> <p>Action: Discuss with the MPTS Communications and Corporate Affairs Team and IS the possibility of tracking tribunal member engagement with circulars.</p> <p>Responsible: Vaishali Fitton, Senior Legal Adviser</p> <p>Due by: 30 November 2024</p>	Low
<p>4.</p> <p>Comment: We do not consider the creation of a community of interest would be cost-effective however we are considering organising a series of roadshows for tribunal members to attend if they wished to do so.</p> <p>Responsible: N/A</p> <p>Due by: N/A</p>	

Appendix 1 - Definitions

		Design	Effectiveness
Green		There is a sound system of internal control designed to achieve system objectives.	The controls that are in place are being consistently applied.
Green-Amber		Generally, a sound system of internal control designed to achieve system objectives with some minor exceptions.	Evidence of minor non-compliance with some controls, of a housekeeping nature, which are unlikely to put system objectives at risk.
Amber		Some weaknesses in the system of internal control exist with some system objectives potentially at risk of not being achieved.	More significant non-compliance with some controls that may put some of the system objectives at risk.
Amber-Red		System of internal controls is weakened with the majority of system objectives at risk of not being achieved.	Non-compliance with key procedures and controls places the system objectives at risk.
Red		Poor system of internal control.	Non-compliance and/or compliance with inadequate controls.

Risk and significance categories for recommendations

High	There is potential for financial loss, damage to reputation or loss of information. This may have implications for the achievement of business objectives and recommendation should be actioned immediately.
Medium	There is a need to strengthen internal control or enhance business efficiency.
Low	Internal control should be strengthened, but there is little risk of material loss.

Appendix 2 – Interviewees

The following people have been consulted during the course of this work.

Name	Title
Claire Backhouse	MPTS Legal Adviser
Gavin Brown	MPTS Executive Manager
Vaishali Fitton	MPTS Senior Legal Adviser
Michelle Kibble	MPTS Training and Development Manager



Agenda item:	06
Report title:	Annual review of the MPTS vision
Report by:	Anna Rowland, Assistant Director – Policy and Business Transformation, GMC anna.rowland@gmc-uk.org , 020 7189 5077
Considered by:	MPTS Committee
Action:	To consider

Executive summary

- ▶ The MPTS has had a vision statement, agreed by our Committee, since 2017. It was last revised in 2021.
- ▶ The vision statement underpins the work of the MPTS, including that detailed elsewhere on the Committee's agenda.
- ▶ This paper proposes that we maintain the current vision statement for a further twelve months.

Recommendation

- ▶ That the Committee agree to maintain the MPTS vision statement.

1. The MPTS vision is:

To provide a modern tribunal service that is effective, fair and impartial. A service that:

- ▶ *Makes high quality, well-reasoned, independent decisions to protect the public.*
- ▶ *Treats all tribunal service users with respect and fairness.*
- ▶ *Uses modern technology to enhance the efficiency and effectiveness of running hearings.*
- ▶ *Shares its knowledge and makes a positive contribution to the future direction of adjudication.*

2. The MPTS vision supports the GMC Corporate Strategy for 2021-25, specifically one of its four areas:

Every interaction matters: *We will make sure all our functions, processes and systems are effective, empathetic and accessible for patients, the public, professions, partners and our people.*

3. Our vision remains a helpful framework for articulating how we will maintain and improve the efficiency and effectiveness of our service. It guides the work undertaken by the MPTS, including many of the items discussed on today's agenda.
4. It also helps frame our discussions with MPTS staff about how the work they do contributes to an effective, fair and impartial tribunal service. It helps explain how, as GMC employees, the work they do ultimately contributes to the GMC corporate strategy.
5. We publish the vision within our Annual Report to Parliament each year.
6. We recommend that the Committee maintains the current vision statement.

Annex A – Vision statement 2022/23

Who we are

The MPTS runs hearings for doctors whose fitness to practise is called into question.

We are independent in our decision making and operate separately from the investigatory role of the GMC.

As a statutory committee of the GMC, we are accountable to the GMC Council and the UK Parliament.

Our vision

To provide a modern tribunal service that is effective, fair and impartial. A service that:

1. Makes high quality, well-reasoned, independent decisions to protect the public.
2. Treats all tribunal service users with respect and fairness.
3. Uses modern technology to enhance the efficiency and effectiveness of running hearings.
4. Shares its knowledge and makes a positive contribution to the future direction of adjudication.

Working towards our vision

A service that makes high quality, well-reasoned, independent decisions to protect the public

We will protect the public by delivering a tribunal service which makes and shares high quality, proportionate and well-reasoned determinations in a timely manner.

Our decisions will be underpinned by our over-arching objective:

- a. to protect, promote and maintain the health, safety and well-being of the public,
- b. to promote and maintain public confidence in the medical profession, and
- c. to promote and maintain proper professional standards and conduct for members of that profession

Our decisions will continue to be made by tribunal members who are independent of those who present and defend cases before the tribunal.

We will continue to ensure tribunal members are recruited for decision-making skills and competencies and to train them, appraise their performance and quality assure their decisions.

A service that treats all tribunal service users with respect and fairness

Everyone using our tribunal service can expect to be treated with fairness and respect - doctors, complainants, witnesses and legal professionals.

Equality, diversity and inclusion are integral to the work of the MPTS, both as an adjudicator and in the support we give to our staff.

We will continue to provide equality training to staff and tribunal members, to provide reasonable adjustments for tribunal service users where appropriate and to share and monitor our decision data to support a fair process.

We will continue to signpost doctors and witnesses to the GMC's witness and doctor support services.

We will continue to support doctors without legal representation, providing user-friendly resources that will help them prepare for a hearing and by offering our MPTS Support Service to help lessen the isolation and stress they might encounter.

A service that uses modern technology to enhance the efficiency and effectiveness of running hearings

We will maintain public confidence by conducting tribunal hearings efficiently and expeditiously to minimise delays in resolving cases. By making timely decisions we will reduce the impact on all service users.

We will continue to embrace modern technology to find effective ways of meeting our over-arching objective, including the use of virtual hearings where appropriate.

We will continue to demonstrate value for money by using resources efficiently and utilising hearing rooms efficiently.

A service that shares its knowledge and makes a positive contribution to the future direction of adjudication

We will clearly articulate our role as an adjudication service making independent decisions which are fair to all.

We will engage with the medical profession and its representatives, medico-legal professionals, medical students and others, to share our knowledge and to advocate the importance of engagement in the fitness to practise process.

We will contribute to discussions on the future shape of adjudication within medical regulation and more widely.



Agenda item:	07
Report title:	Tribunal member resourcing
Report by:	Tamarind Ashcroft, Head of Operations and Development. Tamarind.ashcroft@mpts-uk.org, 0161 240 7291
Considered by:	MPTS Committee
Action:	To note

Executive summary

This paper details an overview of tribunal resourcing.

In summary,

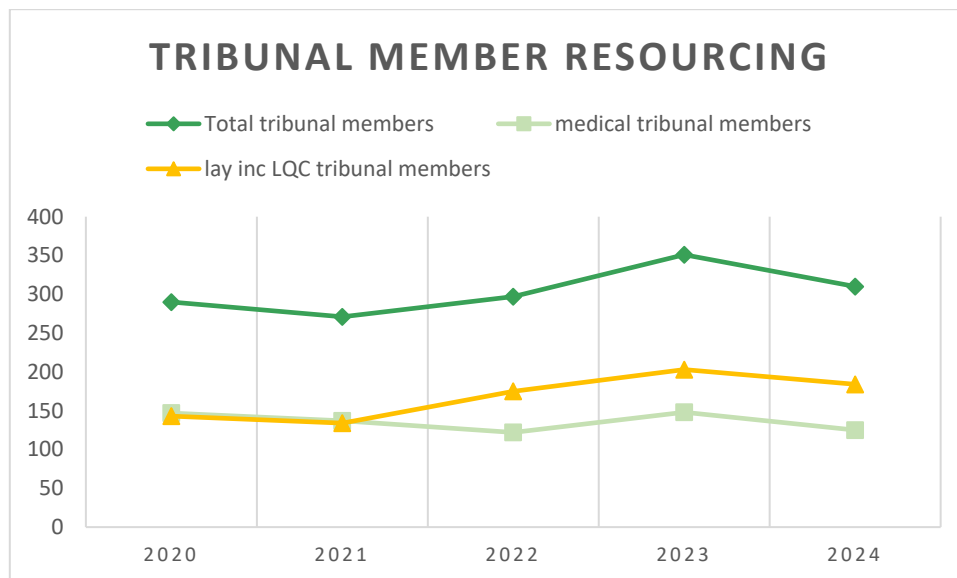
- ▶ Where tribunal member resourcing has required it, contract extensions, beyond our typical terms, have been offered to certain groups of tribunal members who were scheduled to end their contracts in 2024.
- ▶ We are currently undertaking an appointments campaign to appoint up to 50 Legally Qualified Chairs and 40 registrant tribunal members.
- ▶ As hearing volumes remain stable, we do not anticipate any further appointment campaigns will be required until 2026 at the earliest.

Recommendation

The MPTS Committee is asked to note the current resourcing position and plans to ensure we continue to be suitably resourced.

Tribunal member resourcing

- 1** There are currently* 309 tribunal members appointed on a contract for services, down 42 from this time last year. The total number of tribunal members is made up of 125 registrant members and 184 lay / legally qualified chair (LQC) members.
- 2** Over the course of the next calendar year, we anticipate that c80 tribunal members will end their contracts for services due to their natural end date. The appointment of c90 new tribunal members in 2025 will offset these changes with the overlap of contracts starting and ending planned to ensure continuity and consistency.
- 3** During any year, the number of tribunal members available to sit on hearings may differ from the total number of tribunal members in post – currently, for example, there are twelve unavailable for sitting. This has been agreed due to personal or professional commitments which are likely to be temporary.
- 4** Tribunal member resourcing has remained relatively stable over the past five years with only a slight increase in volumes to support increased hearing levels following the pandemic; we are now able to start to revert to the maximum ‘four plus four’ year terms with a gradual reduction of overall volumes of tribunal members to mirror the hearing levels slowly reducing.



Appointments

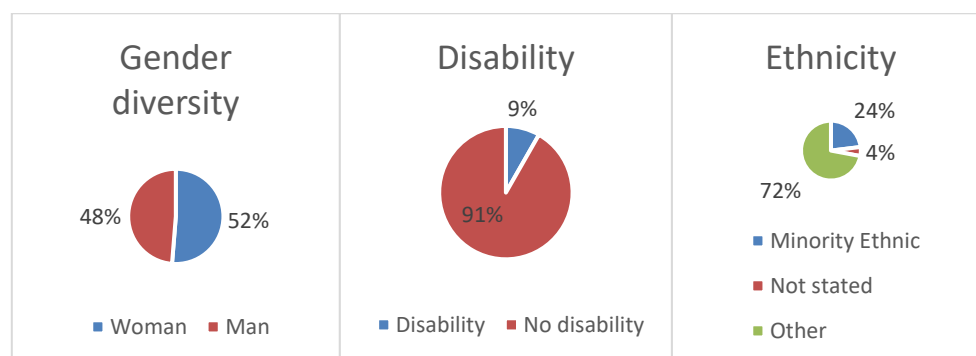
- 5** We plan to appoint approximately 50 LQC and 40 registrant roles this year with interviews scheduled for September and October 2024. Four candidates that were appointed but unable to complete induction training in 2023 may be included within these appointments.

* As at 20/08/2024

- 6** We are scheduled to interview c200 candidates. Remote interviews will again be used but there will be slight adjustments to the approach for case study completion to mitigate against the adverse use of AI during the appointment process. A presentation will be delivered by candidates during the interview which will further assist us to assess individual competencies for the role of tribunal member. We will again ensure quality assurance is undertaken at each stage of the appointment process and this will include quality assuring each of our trained interviewers to ensure consistency in our approach.
- 7** We have worked closely with the Equality, Diversity, and Inclusion team to identify how best to publicise the campaign. To encourage a diverse range of applicants we targeted advertising to twenty professional legal networks and seventeen medical networks concentrating on race, religion, and disability. When this appointment campaign has concluded, we will provide an equality assessment report to the MPTS Committee.

Diversity

- 8** As above, we currently have 309 tribunal members of whom 26% are minority ethnic. At the 2021 census, 18% of the UK population was minority ethnic. Since our 2023 appointments campaign, the number of tribunal members with a stated disability has risen slightly as has gender diversity in favour of females.



- 9** In each hearing, at least one of our three tribunal members must be medically qualified. Of our registrant tribunal members, 31% are minority ethnic – a higher proportion than the UK population, but lower than the medical register (43.2% in 2022).
- 10** For each hearing, we empanel three individuals according to the availability of tribunal members. We do not consider any protected characteristics when empanelling, only availability – effectively a ‘taxi rank’ approach.
- 11** We monitor how often this produces a diverse tribunal, and report on this each year. In 2023, our tribunals had ethnicity diversity on 46.7% of hearings and gender diversity on 70% of hearings. 31.9% of tribunals had both ethnicity and

gender diversity. A single-sex tribunal with no ethnic minority members sat on 15% of hearings.

Current and future resourcing arrangements

- 12** We are hopeful that the appointment campaign underway currently will stabilise tribunal member resourcing for the next 2-3 years and we will monitor resourcing alongside hearing referrals to ensure we are appropriately resourced.



Agenda item: **09**

Report title: **Adjournments Quarterly Update**

Report by: **Samantha Bedford, Head of Case Management,**
samantha.bedford@mpts-uk.org, 0161 240 7112

Considered by: **MPTS Committee**

Action: **To note**

Executive summary

This report:

- ▶ Summarises the key data and themes arising from hearings adjourning in Quarter 2 2024;
- ▶ Identifies actions to be taken forward by the MPTS.

Recommendation

- ▶ The Committee is asked to note the update

Adjournments Quarterly Review: Q2 2024

Scope of review

- 1** Each month a cross-section of staff members from Operations and Case Management meet to identify themes and issues arising from adjourned MPT hearings. Our review takes account of evidence from internal sources, including hearing commentary and case management documents.
- 2** Our findings and recommendations are disseminated to the relevant MPTS teams for action and monitored via an actions log.

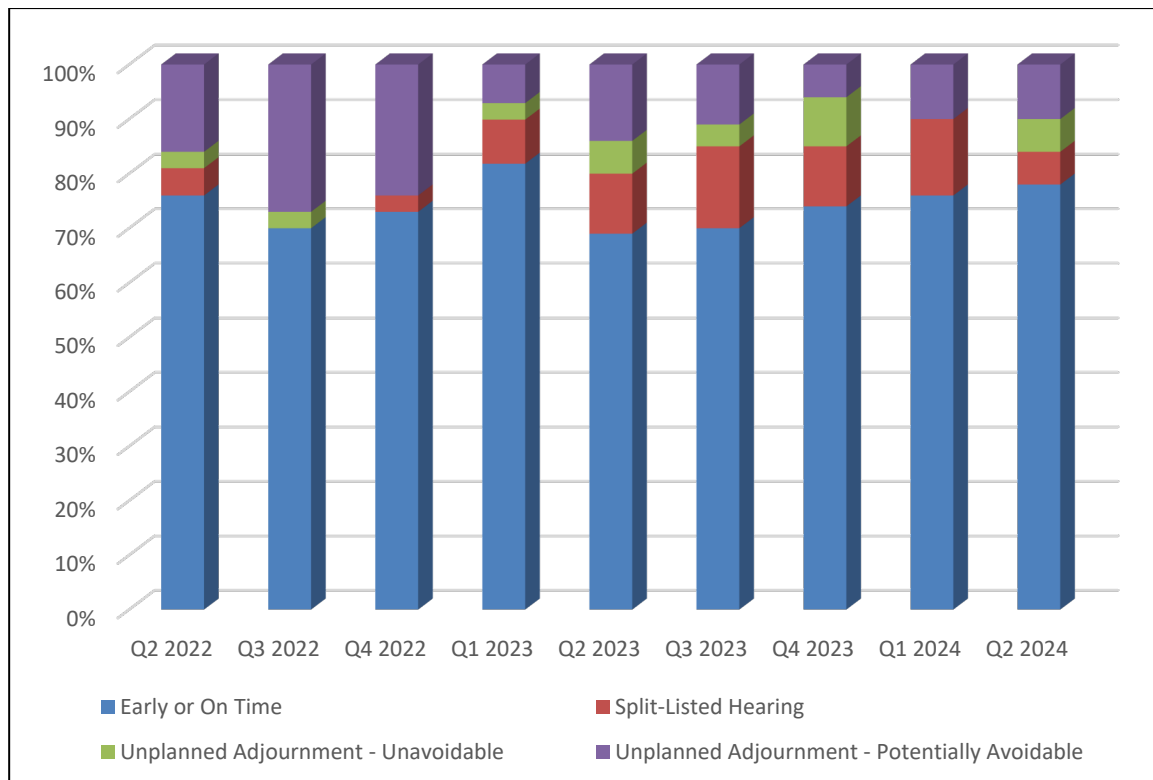
Terminology

- 3** Where a hearing does not conclude in a single listing, we look at whether it was:
 - a.** A **split-listed hearing**, where a hearing is listed to be held in multiple sessions (for example, due to case management intervention or as a reasonable adjustment);
 - b.** An **unplanned adjournment**, which occurs where circumstances arise in the hearing that led to an adjournment.
- 4** Our review determines whether each unplanned adjournment was unavoidable or was potentially avoidable:
 - a.** **Unavoidable unplanned adjournments** arise for reasons that could not reasonably have been foreseen. For example, where a participant is unwell, or if a Tribunal directs the practitioner to undergo an assessment of their health, language or performance;
 - b.** **Potentially avoidable unplanned adjournments** arise where our review finds that parties, the Tribunal or the MPTS (or a combination) could have **potentially** foreseen and taken action to avoid an adjournment.

New MPT hearings

- 5** To put adjournments in context, we look at data regarding all New MPT hearings, including those concluding early or on time. Hearings may conclude early as a result of the findings made by the MPT or where the time required to complete the hearing was otherwise overestimated.
- 6** In Q2 2024, **78%** of all New MPT hearings concluded either early or on time: **28 (30%)** hearings concluded early and **45 (48%)** hearings concluded on time.
- 7** Of the **20 (22%)** of New MPT hearings that did not conclude in a single session, **5 (6%)** were split-listed hearings and **15 (16%)** adjourned on an unplanned basis.

- 8** The chart below shows the percentage of the New MPT hearings workload concluding on time, split-listed or adjourning for the most recent 24-month period, with the unplanned adjourments shown as unavoidable or potentially avoidable.



Other MPT hearing types

- 9** A total of 12 of other MPT hearing types **adjourned unplanned** in Q2/2024. The table below indicates the number of unplanned adjournments across the MPT hearing types:

Hearing Type	Unplanned Adjournment	Split-Listed Hearing
Review Hearings	4	0
Remittal Hearings	0	0
Non-Compliance Hearings	4	0
Restoration Hearings	1	0
New & Review Hearings	2	0
Preliminary Hearings	0	1

Themes emerging from adjourned hearings

- 10** The following themes, which we consider to be potentially avoidable and/or foreseeable, arise from our analysis of the adjourned MPT hearings in Q2 2024:

- a. **MPT deliberations and timekeeping** – There were instances where MPTs took time to complete their deliberations which appeared potentially disproportionate to the issue(s) under consideration (Q2/03, Q2/09, Q2/26, Q2/28, Q2/29), or where hearing time could have been managed more effectively (Q2/02, Q2/03, Q2/14, Q2/15, Q2/26, Q2/28, Q2/31).
 - b. **Delays potentially caused by GMC** – There were instances where avoidable delays appear to have been caused by issues relating to GMC preparation or presentation of evidence (Q2/02, Q2/04, Q2/20, Q2/22, Q2/25).
 - c. **Delays potentially caused by doctor/defence** – There were instances where doctor/defence preparation was incomplete or delayed progress during the hearing (Q2/21, Q2/29).
 - d. **Service of hearing documentation** – There were instances where issues relating to service led to adjournment: on two occasions the GMC could not prove service for their part of the notice process (Q2/12, Q2/30); on one occasion the external service provider could not provide proof of delivery due to administrative error (Q2/07); on one occasion the MPTS made an error in an address which led to service being deemed ineffective (Q2/16).
- 11** References “QX/XX” are used above as identifiers for specific hearings. Anonymised identifiers have been used for the purposes of this paper as they may relate to matters which have not yet concluded.

Identified action points

- 12** The review identified a number of actions from the analysis of Q2 adjournments, as outlined below. Any actions relating to identifiable individuals have been amended to ensure confidentiality.
- a. Actions relating to MPTS:
 - i Three hearings identified where issues will be notified to Tribunal Development for review and potential feedback to MPTs regarding: hearing management and deliberation time; substantively adjourning a hearing with 2.5 days remaining due to the perceived risk of not completing a hearing stage; ensuring parties adhere to witness schedules and estimated timings.
 - ii One hearing to be referred to the MPTS Training team for potential use as a case study on time management in future training.
 - iii One hearing to be referred to the Quality Assurance Group for review of the use of tribunal-directed health assessments.

- b. MPTS to provide feedback to GMC Legal on issues including: witness scheduling in one hearing; proving service in two hearings; and making redactions to hearing bundles in one hearing.

Adjournments detailed reviews

- 13** In 2019 the MPTS introduced an adjournment detailed review (ADR) for cases which have required a significant number of additional hearing days and/or have unexpectedly adjourned on a significant number of occasions. The intended purpose of the ADR process is to reflect in more detail on the hearing experience and identify learning points for MPTS teams and MPTS users, so that adjournments can be avoided wherever reasonably possible.
- 14** Since the previous report to the MPTS Committee, one ADR (ADR7) has been completed and two ADRs (ADR8 and ADR9) are ongoing. The key points arising from ADR7 are summarised below.
- 15** In 2019, Dr ADR7's hearing was scheduled for 15 days. In early 2020 the MPTS Case Manager directed an urgent preliminary hearing be held to consider outstanding issues related to disclosure of additional allegations and admissibility of evidence. The substantive hearing opened as scheduled in Q1 2020 but only sat for 3 of the allocated days, due to delays arising from parties amending hearing bundles to reflect the outcome of the preliminary hearing. While those matters were resolved, the hearing then adjourned due to witness availability. The hearing reconvened over a further 6 sessions, concluding in January 2023. Subsequent sessions were impacted by parties' applications, the health of a hearing participant and COVID-19 pandemic restrictions.
- 16** The team undertaking ADR7 identified the following learning points:
- a. Feedback to the GMC on the approach taken in this case to: (i) disclosure of additional allegations; (ii) witness scheduling; both of which were factors contributing to the adjournment;
 - b. Consideration of feedback for tribunal members on the need to actively address whether parties have failed to comply with pre- and in-hearing case management directions issued;
 - c. MPTS to consider the issues arising in this case when next conducting a gap analysis of the guidance available for tribunals and clerks on handling commonly occurring issues.

Review of IOT adjournments

- 17** At the Committee's request, members of the Adjournments Monthly Review group have also analysed a sample of IOT adjournments for the Committee's awareness. The review period covered January to May 2023 inclusive. A summary of the findings can be found at Annex A.

Annex A: Review of IOT adjournments

- 18** This paper sets out key observations from an internal MPTS review of New IOT and Review IOT hearings adjourning during the period January to May 2023 inclusive (**the Review Period**).

Sample size

- 19** The adjournments were split across the Review Period as follows:

January 2023	February 2023	March 2023	April 2023	May 2023
6	6	3	3	6

- 20** During the Review Period there was a total of **253** IOT New or IOT Review hearings with **24** adjourning, giving a monthly adjournment average of **9.5%**.

- 21** Of the 24 adjourned hearings **6** hearings were **New** and **18** were **Review** hearings.

Parties and adjournment applications

- 22** The internal review looked at practitioner attendance and representation status:

Status	Number of adjournments	IOT attendance data 2023
Did not attend	4 (16.6%)	11.7%
Represented only	7 (29.2%)	1.7%
Represented and present	13 (54.2%)	72.8%
Unrepresented and present	0 (0%)	13.8%

- 23** Applications to adjourn were made by the practitioner on 7 occasions, by the GMC on 1 occasion, and by the **IOT** of its own volition on **16** occasions.

- 24** The GMC **opposed** adjournment in **7** hearings and **did not oppose** adjournment in **17** hearings.

Adjournment reasons

- 25** The internal review found that the principal reason for each adjournment could be categorised as follows:

Reason	Number of adjournments
Practitioner sought delay to attend or be represented	4
Practitioner sought additional preparation time	7
Practitioner health	2
Insufficient time to conclude	6
Issues with GMC preparation	2
Ineffective service (including where notice period deemed unreasonable)	3

Quality of adjournment determinations

- 26** In the 6 hearings where the IOT assessed there was insufficient time to conclude, all of the determinations failed to confirm when the IOT first began considering the relevant case. In 1 of the 6 hearings the time taken by the IOT to consider the earlier cases in the list appeared potentially disproportionate and therefore could have contributed to the adjournment.
- 27** There were 5 hearings where there was a lack of clarity in the IOT's determinations regarding the reasons for adjourning:
- a. In 1 case, how the IOT reached its view that hearings could only take place when all documents requested by a practitioner had been provided to them;
 - b. In 1 case, whether (and how) the IOT had assessed that the practitioner had voluntarily absented themselves from the hearing;
 - c. In 1 case, whether the IOT had considered whether the practitioner could have instructed representatives at an earlier date;
 - d. In 1 case, how the IOT reached its view that a practitioner may have had an emergency or technical difficulties, rather than voluntarily absenting themselves;
 - e. In 1 case, the IOT's determination did not adequately address the points raised by the GMC in opposing an adjournment, or why the practitioner's interests in adjourning outweighed other public interest factors.